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SUBJECT: UPDATE ON GACACA GENOCIDE CASES

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Classified By: Ambassador Michael R. Arietti, reason 1.4 (B/D)

¶1. (SBU) Summary. Gacaca courts by the end of 2007 had heard over one million genocide cases, with just under seventy thousand cases remaining. New gacaca legislation will move most category one cases (the most serious suspects, just under nine thousand) from regular courts to the gacaca system. The best gacaca judges will be selected to hear them. Twelve hundred genocide cases already begun in the regular courts will also be moved to gacaca courts. Changes in sentencing are also contemplated, with greater use of community service and less prison terms. A final review of completed gacaca cases is underway, with "general assemblies" of gacaca judges in each sector reviewing some cases. Rwanda is on the cusp of completing its monumental task of judging, neighbor by neighbor, the dark days of the 1994 genocide. End summary.

¶2. (C) Emboffs met with Denis Bisheka, Director of Training and Sensitization at the National Gacaca Service on March 18, to discuss Government of Rwanda efforts to wind-up adjudication of genocide cases. Bisheka said the total gacaca case load at the end of 2007 stood at 1,127,776 cases, of which 1,059,298 had been adjudicated (including trial proceedings and appeals). The remaining 68,478 cases (many of which had likely been heard since the turn of the year) would be completed in the next month or two, he estimated.

¶3. (C) Pending legislation, he said, would soon transfer nearly all remaining category one genocide cases (8734 in total) to the gacaca courts. Nearly ninety percent of these cases, he commented, were rape cases, which would require extra procedures, including some sort of in-camera hearings, to protect the victims' identities and encourage their testimony. Aside from these category one cases, which had never been heard, another 1200 genocide cases were in various stages of regular court proceedings. These cases would also be transferred to the gacaca courts. Those few cases remaining in the regular courts (he had no exact estimate) would concern only the very top leaders of the 1994 genocide now in Rwandan hands.

¶4. (C) For the category one cases transferred to gacaca courts, new sentencing guidelines would be used -- including life without the possibility of parole for those who did not confess (note: most gacaca cases end in confessions by the accused, who receive lighter sentences, including immediate release to their families, with community service and jail time coming later). However, for the 1,127,776 cases

previously mentioned, he said, pending legislation would retroactively reduce actual prison sentences even further (beyond the lighter sentences mandated by a gacaca amendment in March of 2006), with greater use of community service (called TIG) and suspended sentences. Bisheka said the Gacaca Service had given serious thought to "suspending everything," with all prison sentences wiped away (with some further use of TIG). However, he added, sentiment among genocide survivors had run heavily against this. While survivors did not demand genocidaires serve full sentences, he noted, they did want some jail time retained under the new legislation.

¶5. (C) Regarding fully adjudicated gacaca cases, Bikesha said that at the sector level (Rwanda has 416 sectors), Qsaid that at the sector level (Rwanda has 416 sectors), "general assemblies" of the sector gacaca judges would make one final review of completed cases, essentially those that were particularly controversial -- he gave the example of human rights activist Francois Byuma, given a nineteen year sentence for arguably limited involvement in the deaths of several Tutsis during the genocide (reftel).

¶6. (C) In a separate session also on March 18, representatives of Human Rights Watch, Penal Reform International and Lawyers Without Borders offered to emboffs and other diplomats their comments on the pending gacaca legislation, decrying in particular what they perceived to be the lack of privacy protections for rape victims for cases transferred to neighborhood gacaca cases. They expressed concern that for the 1200 cases already underway in the regular courts, transfer to gacaca courts would constitute a modified form of double jeopardy -- some suspects might have won at trial court, with the case appealed by the prosecution, only to find themselves retrying the case before a gacaca panel of judges. The representatives also repeated concerns they had expressed in the past over lack of adequate due process protections, particularly as the gacaca system began to speed up adjudications last summer.

¶7. (C) Comment. The Gacaca Service appears to have nearly completed its monumental task of adjudicating over one million genocide cases. Many observers (including our own human rights reports) have criticized the widely acknowledged due process limitations of a neighborhood justice system conducted by non-lawyers. However, a measure of justice has been dispensed in the supremely difficult task of neighbors judging neighbors for reprehensible acts. As the adjudications move into their final phase, we see a practical evolution of punishments (given limited prison space and years of overcrowding), with increasingly lighter sentences mandated by a series of legislative amendments. End summary.
ARIETTI